UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,791	11/29/2000	Jennings Pressly	PJZ-1	9580

			EXAMINER
22827	7590	05/07/2004	SAIN, GAUTAM

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DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _14 March 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-25_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-25_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _3/3-01_.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1)   If a copy of a provisional application listed on the bottom portion of the

accompanying Notice of References Cited (PTO-892) form is not included with this

Office action and the PTO-892 has been annotated to indicate that the copy was not

readily available, it is because the copy could not be readily obtained when the Office

action was mailed. Should applicant desire a copy of such a provisional application,

applicant should promptly request the copy from the Office of Public Records (OPR) in

accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR

1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to

this Office action will not be reset under MPEP § 710.06 unless applicant can

demonstrate a substantial delay by the Office in fulfilling the order for the copy of the

provisional application. Where the applicant has been notified on the PTO-892 that a

copy of the provisional application is not readily available, the provision of MPEP

§ 707.05(a) that a copy of the cited reference will be automatically furnished without

charge does not apply.

Claim Rejections - 35 USC § 102

2)   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2-1)   Claims 1, 3, 5,11,16,18,19,20-25 are rejected under 35 U.S.C. 102(b) as being

anticipated by Evans (US 5924074, issued Jul 1999).

Regarding claim 1, Evans teaches "patient demographics... records" (ie., patient record with demographics data)(col 8, line 61 – col 9, line 13).

Evans teaches "first ... display" (ie., patient box, select button..)(col , lines 55-67; fig 3, item 120-123).

Evans teaches "medical ... records" (ie., data tables...)(col 9, lines 1-10; col 2, lines 60-65; fig 14, item 229; fig 20, item 330).

Evans teaches "personnel ... records" (ie., nurse, physician ... personnel)(col 15, lines 30-35; col 2, lines 50-55).

Evans teaches "first assignment ... record" (ie., select procedure on a patient data record)(col 11, lines 37-64).

Evans teaches "second assignment ... record" (ie., patient record has data tables ... physician codes ... procedure codes)(col 9, lines 1-10).

Evans teaches "a display ... record" (ie., select procedure for patient... elect provider for patient)(col 11, lines 50-60; fig 3)

Evans teaches "image capture ... data" (ie., scanner)(col 13, lines 9-15).

Evans teaches "third ... record" (ie., x-ray in patient chart)(fig 8, item 185; col 7, lines 28-40; col 5, lines 1-5; col 8, lines 30-40).

Evans teaches "image ... data" (ie., digital x-ray image)(col 8, lines 30-40).

Evans teaches "diagnosis .... Record" (figure 20, items 337, 338; col 11, lines 48-64).

Regarding claim 3, Evans teaches "reporting ... procedure records" (ie.,

reporting system for managing ... patient's information)(col 1, line 47)(ie., patient's

record ... physician, patient data)(col 5, col 29-55).

Evans teaches "transmission ..." (col 4, lines 23-25).

Regarding claim 5, Evans teaches "... e-mail" (ie., electronic mail)(col 9, line 1).

Regarding claim 11, Evans teaches " a security component ... diagnostic

information" (ie., authorized providers... permits physicians ...)(col 2, lines 45-66)(ie.,

login name, password...)(col 15, lines 9-32).

Regarding claim 16, Evans teaches "record ... records" (ie., database, patient

record)(col 2, line 45-64)

Evans teaches "...catalog diagnoses" (col 1, lines 45-50; fig 20, item 334).

Evans teaches "image capture ... data" (ie., scanner)(col 13, lines 9-15).

Evans teaches "first selection ... display" (ie., patient box, select button..)(col ,

lines 55-67; fig 3, item 120-123).

Evans teaches "second selection ... record" (ie., select procedure on a patient

data record)(col 11, lines 37-64).

Evans teaches "third ... display" (ie., digital x-ray image)(col 8, lines 30-40).

Evans teaches "image display ... diagnosis" (ie., x-ray in patient chart)(fig 8, item

185; col 7, lines 28-40; col 5, lines 1-5; col 8, lines 30-40).

Evans teaches "access ... information " (ie., data from external source)(col 10,

lines 30-45; fig 17A; col 9, line 10).

Evans teaches "external capture ... information" (ie., external sources...

laboratory or pharmacy)(col 10, lines 30-45; col 9, line 10).

Evans teaches "second insertion ... diagnosis" (ie., ... interface to external

source ... data handler ... data manager... incorporates converted data into patient

record)(col 10, lines 40-50; col 9, lines 10).

Evans teaches "word processing ... field" (ie., add note button in fig 20, item 337-

339)(col 11, lines 45-67).

Evans teaches "reporting ... procedure records" (ie., reporting system for

managing ... patient's information)(col 1, line 47)(ie., patient's record ... physician,

patient data)(col 5, col 29-55).

Evans teaches "transmission ..." (col 4, lines 23-25).

Regarding claim 18, Evans teaches "... compact disc reader ..." (ie., optical

reader)(fig 24, between item 414 and 246, labeled 'OPTICAL DRIVE').

Regarding claim 19, Evans teaches "... external source ... Internet" (ie., World

Wide Web)(fig 24, item 404).

Regarding claim 20, Evans teaches "entering patient demographics data" (ie.,

patient record with demographics data)(col 8, line 61 – col 9, line 13).

Evans teaches "...personnel" (ie., nurse, physician ... personnel)(col 15, lines 30-

35; col 2, lines 50-55).

Evans teaches "examination ... data" (ie., patient box, select button..)(col , lines

55-67; fig 3, item 120-123).

Evans teaches "entering orders...information " (ie., medication manager)(col 13, lines 57-60; fig 21, item 350).

Evans teaches "display ... physician" (ie., display view item ... patient data)((col 7, lines 5-40).

Evans teaches "retrieving ... procedures" (ie., display xray ...)(col 7, lines 30-40).

Evans teaches "displaying ... physician" (ie., select arrow on left of window in fig 20, item 334)(col 11, lines 45-50).

Evans teaches "retrieving ... menu selection" (ie., select arrow on left of window in fig 20, item 334)(col 11, lines 45-50).

Evans teaches "editing ... dictation" (ie., physcian's dictation ... diagnosis codes)(col 9, lines 1-10).

Evans teaches "formatting a report ... diagnosis " (ie., reporting system for managing ... patient's information)(col 1, line 47)(ie., patient's record ... physician, patient data)(col 5, col 29-55).

Evans teaches "transmitting ..." (col 4, lines 23-25).

Regarding claim 21, Evans teaches "menu list ... body part" (ie., list of body systems...)(col 11, lines 40-43; fig 20, item 331)

Regarding claim 22, Evans teaches "menu lists ... condition" (ie., physician selects from list of body system...)(col 11, lines 40-45; fig 20, item 331). Each body system inherently contains it's own set of medical problems and conditions.

Regarding claim 23, Evans teaches "saving ... catalog" (ie., annotating window ... keyword; electronic mail)(col 7, lines 5-15; col 9, line 1).

Regarding claim 24, Evans teaches "access ... information " (ie., data from

external source)(col 10, lines 30-45; fig 17A; col 9, line 10).

Evans teaches "retrieving information ... source" (ie., external sources...

laboratory or pharmacy)(col 10, lines 30-45; col 9, line 10).

Evans teaches "editing ... information" (ie., ... interface to external source ...

data handler ... data manager... incorporates converted data into patient record)(col

10, lines 40-50; col 9, lines 10).

Regarding claim 25, Evans teaches "saving ... catalog" (ie., annotating window

... keyword; electronic mail)(col 7, lines 5-15; col 9, line 1).

Claim Rejections - 35 USC § 103

3)   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3-1)   Claims 2,6,7,8,9, 14, 15, 17 are rejected under 35 U.S.C. 103(a) as being

unpatentable over <u>Evans</u> (as applied to claim 1 above), in view of <u>Hemphill</u> (US

5774628, issued Jun 1998, see IDS).

Regarding claim 2, Evans teaches "diagnosis ... information" (col 11, lines 48-

55; fig 20, item 447).

Evans teaches "catalog ... diagnoses" (col 1, lines 45-50; fig 20, item 334).

Evans teaches "second ... standard diagnoses" (ie., select arrow on left of

window in fig 20, item 334)(col 11, lines 45-50).

Evans teaches "first ... field" (fig 20, item 336).

Evans teaches "dictation ... voice data" (col 9, lines 3-4).

Evans does not teach, but Hemphill teaches "speech recognition ... dictated

data", "second insertion means... display field"(ie., user agents ... speech

module...)(col 3, lines 40-45). Specifically, Evans does use a data manager to

incorporate audio data from physician's dictation into patient's record and Hemphill uses

a speech recognition.

Evans teaches "access ... information " (ie., data from external source)(col 10,

lines 30-45; fig 17A; col 9, line 10).

Evans teaches "external capture ... information" (ie., external sources...

laboratory or pharmacy)(col 10, lines 30-45; col 9, line 10).

Evans teaches "a third ... field" (ie., ... interface to external source ... data

handler ... data manager... incorporates converted data into patient record)(col 10,

lines 40-50; col 9, lines 10).

Evans teaches "word processing ... field" (ie., add note button in fig 20, item 337-

339)(col 11, lines 45-67).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Evans to include speech module translators into text for text

manipulation of the data as taught by Hemphill, providing the benefit of an input device

for receiving voice signals and interact with display browsers (Hemphill, col 1, lines 44-

50; abstract)(Evans, col 9, lines 3 – 14).

Regarding claim 6, Evans teaches "second selection ... body part" (ie., list of body systems...)(col 11, lines 40-43; fig 20, item 331)

Regarding claim 7, Evans teaches "second ... condition" (ie., physician selects from list of body system...)(col 11, lines 40-45; fig 20, item 331). Each body system inherently contains it's own set of medical problems and conditions.

Regarding claim 8, Evans teaches "standard ... diagnoses" (ie., annotating window.. keyword...)(col 7, lines 5-25).

Regarding claim 9, Evans teaches "standard diagnosis ... catalog of standard diagnoses" (ie., annotating window ... keyword; electronic mail)(col 7, lines 5-15; col 9, line 1).

Regarding claim 14, Evans teaches "record ... records" (ie., database, patient record)(col 2, line 45-64)

Evans teaches "catalog ... diagnoses" (col 1, lines 45-50; fig 20, item 334).

Evans teaches "image capture ... data" (ie., scanner)(col 13, lines 9-15).

Evans teaches "first ... display" (ie., patient box, select button..)(col , lines 55-67; fig 3, item 120-123).

Evans teaches "second selection ... record" (ie., select procedure on a patient data record)(col 11, lines 37-64).

Evans teaches "third ... data" (ie., digital x-ray image)(col 8, lines 30-40).

Evans teaches "image display ... record" (ie., x-ray in patient chart)(fig 8, item 185; col 7, lines 28-40; col 5, lines 1-5; col 8, lines 30-40).

Evans does not teach, but Hemphill teaches "speech recognition ... textual data",

"dictation display means... dictated data"(ie., user agents ... speech module...)(col 3,

lines 40-45). Specifically, Evans does use a data manager to incorporate audio data

from physician's dictation into patient's record and Hemphill uses a speech recognition.

Evans does not teach, but Hemphill teaches "first insertion means... dictated

data... diagnosis"(ie., user agents ... speech module...)(col 3, lines 40-45).

Evans teaches "word processing ... field" (ie., add note button in fig 20, item 337-

339)(col 11, lines 45-67).

Evans teaches "reporting ... procedure records" (ie., reporting system for

managing ... patient's information)(col 1, line 47)(ie., patient's record ... physician,

patient data)(col 5, col 29-55).

Evans teaches "transmission ..." (col 4, lines 23-25).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Evans to include speech module translators into text for text

manipulation of the data as taught by Hemphill, providing the benefit of an input device

for receiving voice signals and interact with display browsers (Hemphill, col 1, lines 44-

50; abstract)(Evans, col 9, lines 3 – 14).

Regarding claim 15, Evans teaches "access ... information " (ie., data from

external source)(col 10, lines 30-45; fig 17A; col 9, line 10).

Evans teaches "external capture ... information" (ie., external sources...

laboratory or pharmacy)(col 10, lines 30-45; col 9, line 10).

Evans teaches "second insertion ... diagnosis" (ie., ... interface to external

source ... data handler ... data manager... incorporates converted data into patient

record)(col 10, lines 40-50; col 9, lines 10).

Regarding claim 17, Evans does not teach, but Hemphill teaches "speech

recognition ... textual data", "dictation display means... dictated data"(ie., user agents

... speech module...)(col 3, lines 40-45). Specifically, Evans does use a data manager

to incorporate audio data from physician's dictation into patient's record and Hemphill

uses a speech recognition.

Evans does not teach, but Hemphill teaches "second insertion means... dictated

data... diagnosis"(ie., user agents ... speech module...)(col 3, lines 40-45).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Evans to include speech module translators into text for text

manipulation of the data as taught by Hemphill, providing the benefit of an input device

for receiving voice signals and interact with display browsers (Hemphill, col 1, lines 44-

50; abstract)(Evans, col 9, lines 3 – 14).

3-2)   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Evans (as applied to claim 1 above), in view of Hemphill (US 5774628, issued Jun

1998), further in view of Gilbert (US 6381576, filed Dec 1998).

Regarding claim 10, Evans in view of Hemphill does not teach, but Gilbert

teaches "standard diagnosis entry component allows insertion" (ie., databases to refine

groupings and generate updates provided to members to identify undiscovered trends

... formulating the diagnosis and treatment information data structure)(col 11, lines 15-25, lines 39-47).

Evans teaches "a diagnosis ... standard diagnosis" (ie., item 334 showing diagnoses that are stored in the database)(fig 20, item 330-334). The databases that provide the diagnosis selection list can be updated according to the Gilbert teachings to reflect updates and refinements of standard diagnoses.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Evans in view of Hemphill to include a database of medical diagnoses and procedures that can be refined and updated to reflect new trends as taught by Gilbert, providing the benefit of providing a data structure for capturing diagnostic-treatment information for effective analysis and for guidance of health care providers at the point of decision (Gilbert, col 2, lines 33-40) and allows patient data such as diagnoses at its source at the time of entry using a graphical user interface having touch screens (Evans, Abstract).

3-3)   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (as applied to claim 1 above), in view of Knaus et al (US PGPUB 20020016923, provisional filed Jul 2000, 60/216,147).

Regarding claim 4, Evans does not teach, but Knaus teaches "transmits by facsimile" (para 60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Evans to include facsimile as taught by Knaus, providing the benefit of allowing a provider to transmit the data by using a variety of means (para 60).

3-4)   Claim 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Evans (as applied to claim 1 above), in view of Sullivan (US PGPUB 20020077865,

provisional application 60245255, Nov 2, 2000).

Regarding claim 12, Evans does not expressly teach, but Sullivan teaches

"medical record... status field" (ie., 'done' field 102 provides ... status ...)(para 122).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Evans to include a database status reporting capability which is

displayed to the user with regard to procedure or treatment as taught by Sullivan,

providing the benefit of improving the medical care of patients in a medical database

associated with patient data into the data record (abstract).

Regarding claim 13, Evans does not expressly teach, but Sullivan teaches

"editing ... update component ... records" (ie., the 'done' field displays a 'C' after a chart

template has been x-ray)(para 122).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Evans to include a editable and updateable database status

reporting capability which is displayed to the user with regard to procedure or treatment

as taught by Sullivan, providing the benefit of improving the medical care of patients in a

medical database associated with patient data into the data record (abstract).

Other Cases

4)   A.   Teshima (US 6272470, filed Sep 1997).

       B.   Marchosky (US 20020029157, filed Jul 2001).

       C.   Wilkins (US 6523009, filed Nov 1999).

D.   Dart et al (US 6529876, filed Mar 1999).

E.   Stutman et al (US 5416695, issued May 1995).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gautam Sain whose telephone number is 703-305-

8777. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph Feild can be reached on (703)305-9792. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Gautam Sain

JOSEPH FEILD
SUPERVISORY PATENT EXAMINER